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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

23 Cr. 484 (RMB)

5 ROBERT DIAZ,

6 Arraignment

7 Defendant.

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8 New York, N.Y.
9 October 5, 2023
10 11:30 a.m.

11 Before:

12 HON. RICHARD M. BERMAN,

13 District Judge

14 APPEARANCES

15 DAMIAN WILLIAMS

United States Attorney for the
16 Southern District of New York

LISA DANIELS

17 ADAM SOWLATI

Assistant United States Attorneys

18 DAVID PATTON

19 FEDERAL DEFENDERS OF NEW YORK, INC.

Attorney for Defendant

20 BY: HANNAH McCREA

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1 (Case called)

2 THE COURT: So I understand that there's been a
3 presentment in this case but not an arraignment; is that
4 correct?

5 MS. MCCREA: I believe it is an arraignment.

6 THE COURT: Was there an arraignment?

7 MS. DANIELS: We're here today for the arraignment.
8 The presentment was yesterday.

9 THE COURT: Okay. So the question is to defense
10 counsel and to the defendant, whether you both, starting with
11 defense counsel, have you received a copy of the indictment in
12 this case?

13 MS. MCCREA: Yes, your Honor.

14 And if I could just make a record, Hannah McCrea for
15 Mr. Diaz with Federal Defenders. I'm standing in for my
16 colleague, for Mr. Kaminsky.

17 I received a copy of the indictment. Mr. Diaz and
18 Mr. Kaminsky were able to review it yesterday. I was present.

19 THE COURT: Mr. Diaz, you've gone over that indictment
20 with your attorney?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. Did you want me to read it at this
23 point in time or do you waive a public reading?

24 THE DEFENDANT: No, sir. I waive.

25 THE COURT: Okay. Counsel, is that okay with you too?

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1 MS. MCCREA: Yes, your Honor. Thank you.

2 THE COURT: And what plea, counsel, is Mr. Diaz
3 entering?

4 MS. MCCREA: Not guilty.

5 THE COURT: Not guilty?

6 MS. MCCREA: Correct.

7 THE COURT: Is that right, Mr. Diaz? You're pleading
8 not guilty in the case?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. So where do you think things are
11 headed and in what timeframe between the government and defense
12 counsel?

13 MS. DANIELS: Lisa Daniels for the government, and I'm
14 joined by my colleague Adam Sowlati.

15 The government will begin producing discovery
16 forthwith. The discovery in this case consists of evidence
17 related to two separate assaults and robberies of postal
18 carriers. Those offenses occurred on June 28 of 2022 and
19 July 8 of 2022.

20 The discovery includes video taken by one of those
21 victims, the victim of the July 28 theft, as the defendant
22 fled, surveillance video of the defendant fleeing that same
23 assault and robbery, body camera footage of NYPD responding to
24 the scene, testimony and statements of that victim, screenshots
25 of social media showing the defendant in the same clothing as

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1 the surveillance video of the perpetrator fleeing the June 28
2 theft.

3 There have been a number of search warrants in this
4 investigation so far. Those include, with respect to the
5 June 28 assault and robbery, two cell site location data
6 warrants and a warrant for social media including from Facebook
7 and Instagram. So the discovery will include the returns from
8 those warrants including cell site location data and call
9 detail records. There are also grand jury subpoena returns
10 including from entities such as Google, Meta, T-Mobile,
11 TD Bank, NYPD records; in addition, with respect to the July 8
12 robbery, video and photographs related to that offense, again,
13 police reports and records, 911 call records. With respect to
14 that offense, there is a cell tower warrant and the returns
15 from that warrant. In addition, there are DNA records of DNA
16 taken from the July 8 offense victim's clothing and the results
17 of that DNA testing which match the defendant's DNA.

18 The government anticipates, as I said, producing the
19 discovery forthwith and perhaps on a rolling basis, but we
20 anticipate having substantially completed production of
21 discovery in about two weeks, by approximately October 20 of
22 2023. Any discovery that comes in the government's possession
23 thereafter we will produce on a rolling basis.

24 THE COURT: Okay. And defense counsel, what would you
25 suggest is our next stop in this case? A date, for example?

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1 MS. MCCREA: Your Honor, I believe Mr. Kaminsky
2 confirmed with the government yesterday. We're looking for a
3 date in early December to come back. We anticipate that will
4 be enough time to review the government's production.

5 THE COURT: How about 12:30 on December 11? Does that
6 work for all of you?

7 MS. MCCREA: That works for us.

8 MS. DANIELS: That works for the government.

9 THE COURT: Is there a speedy trial issue or
10 application that takes us to December 11?

11 MS. DANIELS: Yes, your Honor.

12 The government moves for an exclusion of time between
13 today's date and the next scheduled conference on December 11
14 to permit the parties to review and produce discovery and
15 potentially engage in discussions regarding a pretrial
16 resolution of this matter. The government submits that an
17 exclusion of time is in the interest of justice here.

18 MS. MCCREA: No objection, Your Honor.

19 THE COURT: I'm going to find under 18, United States
20 Code, Section 3161, that the request for adjournment to and
21 including December 11, 2023, joined in by both the defense and
22 the government, is appropriate and warrants exclusion of the
23 adjourned time from speedy trial calculations. I further find
24 that the exclusion is designed to prevent any possible
25 miscarriage of justice, to facilitate these proceedings, to

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1 guarantee effective representation of and preparation by
2 counsel for both parties and, thus, the need for exclusion in
3 the ends of justice outweigh the interests of the public and
4 the defendant in a speedy trial, pursuant to 18 U.S.C., Section
5 3161(h) (7) (A) and B.

6 So unless there is anything else from defense or the
7 government, we can be adjourned for today.

8 MS. DANIELS: Nothing further from the government.
9 Thank you, your Honor.

10 MS. MCCREA: Nothing from the defense.

11 THE COURT: Good to see you all. Thanks a lot.

12 (Adjourned)
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